



PUBLIC NOTICE

Federal Communications Commission
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COMMENT SOUGHT ON AT&T REQUESTS FOR WAIVER OF CELLULAR LICENSE APPLICATION RULES CONCERNING SERVICE AREA BOUNDARY EXTENSIONS

WT Docket No. 13-10

Comment Date: February 20, 2013

Reply Comment Date: March 6, 2013

By this *Public Notice*, the Wireless Telecommunications Bureau (“Bureau”) seeks comment on multiple requests for waiver of Sections 1.923(a)¹ and 22.911(d)² of the Commission’s Rules, filed by AT&T Mobility, LLC, a subsidiary of AT&T, Inc. (“AT&T”).³ We have received numerous applications seeking to modify existing cellular facilities licensed to AT&T.⁴ Each modification application involves at least one cell site with an associated SAB extension that either already overlaps or is proposed to overlap at least one existing CGSA of a neighboring cellular licensee on the same channel block. AT&T does not, however, have in hand all the requisite SAB extension agreements. AT&T asserts that it has pursued negotiations with the neighboring licensees, some resulting in an impasse (Group I applications), others with promise of success but no resolution thus far (Group II applications).⁵ AT&T has filed a Petition for Waiver (“Waiver Request”) with each of these applications seeking permission to continue to

¹ 47 C.F.R. § 1.923(a). Section 1.923(a) establishes a requirement that wireless radio service applications include “all information requested on the applicable form and any additional information required by . . . any rules pertaining to the specific service for which the application is filed.”

² 47 C.F.R. § 22.911(d). Section 22.911(d) prohibits a cellular licensee from commencing operation of any facility that would cause a service area boundary (“SAB”) “to overlap the existing [Cellular Geographic Service Area (“CGSA”)] of another cellular system on the same channel block, without first obtaining the written consent of the licensee of that system.” Section 22.911(d) permits continued operation of “existing facilities that produce an SAB overlapping a subsequently-authorized portion of the CGSA of another cellular system on the same channel block until the licensee of that system requests that the SAB be removed from its CGSA.”

³ For the purposes of this proceeding, we use the term “AT&T” herein to include all entities controlled by AT&T, Inc. that hold the licenses at issue.

⁴ See Appendices I and II, attached.

⁵ AT&T reports that the majority of SAB negotiations for applications involve proposed extensions (notably in Group I), but some involve extensions “that have existed without complaint or concern, such as may occur when AT&T seeks to document prior consents for which the written agreement cannot be found and is unable to confirm that the overlap occurs in an area that was subsequently-authorized for the affected licensee.” Group I Waiver Request at 4. See also Group II Waiver Request at 3.

extend its existing SABs into the CGSAs of the affected neighboring licensees and to file all the applications without having the extension agreements in hand.⁶ Because the rule sections at issue and AT&T's key arguments in support of the Waiver Requests are identical for every application, the Bureau is consolidating its review of the Waiver Requests and seeking comment on all of them through this *Public Notice*. Parties are asked to specify the AT&T application(s) (by FCC file number and call sign(s)) to which their comments pertain. Certain particulars of the Waiver Requests are outlined below.

For each application in Group I, AT&T's Petition for Waiver ("Group I Waiver Request") contends that, despite AT&T's repeated negotiation efforts regarding its SAB extensions, it has not been able to reach agreement with the following four licensees:⁷ C-Spire, including its affiliates (collectively "C-Spire"); East Kentucky Network, LLC d/b/a Appalachian Wireless ("EKN"); NE Colorado Cellular, Inc. ("NE Colorado Cellular"); and Wilkes Cellular, Inc. ("Wilkes"). AT&T describes the SAB overlaps at issue and proffers narrative summaries as well as exhibits with detailed chronologies of its communications with each of these four licensees, including the purported responses from each of them.⁸

For Group II, AT&T's Petition for Waiver ("Group II Waiver Request") claims that the modification applications reflect "existing SAB extensions that AT&T continues to negotiate . . . ,” and adds that it “does not contemplate that any technical issues will impede the execution of [the] agreements.”⁹ AT&T states that it has filed the subject applications while negotiations are still ongoing “in an attempt to get the cellular licenses updated as quickly as possible.”¹⁰ The neighboring licensees involved in the Group II applications are: Verizon Wireless, including entities it controls (collectively, “Verizon Wireless”); Broadpoint License Co. (“Broadpoint”); and Smith Bagley, Inc. (“Smith Bagley”).

Procedural Matters

Comments on the request are due **no later than February 20, 2013**. Reply comments are due **no later than March 6, 2013**. All filings should reference the docket number of this proceeding, **WT 13-10**.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.¹¹ Persons making *ex parte* presentations must file a copy

⁶ The Commission may grant a waiver if (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant of the waiver would be in the public interest, or (2) because of unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative. 47 C.F.R. § 1.925(b).

⁷ Group I Waiver Request at 4.

⁸ *See id.* at 5-8 and Exhs. B (NE Colorado Cellular), C (Wilkes), D (EKN), and E (C-Spire).

⁹ Group II Waiver Request at 1, 4.

¹⁰ *Id.* at 3.

¹¹ *See* 47 C.F.R. §§ 1.1200(a), 1.1206.

of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to [http:// www.fcc.gov/cgb/ecfs/](http://www.fcc.gov/cgb/ecfs/). Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.

PLEASE NOTE: The Commission's former filing location at 236 Massachusetts Ave., N.E. is permanently closed.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, DC 20554.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

The request, and comments and reply comments filed in response to this *Public Notice* are available for viewing via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, **WT 13-10**. The documents also will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY-A257, Washington, DC 20554. They may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

For further information, contact Ms. Nina Shafran of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2781 or via e-mail at nina.shafran@fcc.gov.

Action by the Chief, Mobility Division, Wireless Telecommunications Bureau.

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Appendix I
Group I Applications
(See Group I Waiver Request, Appendix A)

C-Spire							
Application File No.	AT&T Call Sign	AT&T CMA No.	Block	AT&T CMA Name	Neighbor Call Sign	Neighbor CMA No.	Neighbor CMA Name
4432369	KNKA262	CMA041	B	Birmingham	KNKN904	CMA307	AL 1 - Franklin
4353129	KNKA392	CMA120	B	Huntsville	KNKN904	CMA307	AL 1 - Franklin
4353137	KNKA403	CMA106	B	Jackson	KNKN995	CMA497	MS 5 - Washington
4361548	KNKN614	CMA460	B	LA 7-West Feliciana	KNKN757 KNKN644	CMA503 CMA500	MS 11 - Lamar MS 8 - Claiborne
4356579	KNKN761	CMA309	B	AL 3 - Lamar	KNKQ257	CMA498	MS 6- Montgomery
4571996	KNKN878	CMA501	B1	MS 9 - Copiah	KNKQ311 KNKN757 KNKN644	CMA502 CMA503 CMA500	MS 10 - Smith MS 11 - Lamar MS 8 - Claiborne
4848163	KNKN961	CMA495	B2	MS 3 - Bolivar	KNKN885	CMA495	MS 3 - Bolivar
4365241	KNKQ269	CMA496	B1	MS 4 - Yalobusha	KNKQ257	CMA498	MS 6- Montgomery
4353773	KNKQ394	CMA496	B2	MS 4 - Yalobusha	KNKN885 KNKQ300	CMA495 CMA493	MS 3 – Bolivar MS 1 - Tunica
4402257	KNKQ276	CMA307	B2	AL 1 - Franklin	KNKN904	CMA307	AL 1 - Franklin
4595564	KNKQ309	CMA498	B1	MS 6 - Montgomery	KNKQ257	CMA498	MS 6- Montgomery
4353427	KNKQ368	CMA502	B2	MS 10 - Smith	KNKQ311	CMA502	MS 10 - Smith
4345837	KNKQ395	CMA500	B2	MS 8 - Claiborne	KNKN644	CMA500	MS 8 - Claiborne

EKN							
Application File No.	AT&T Call Sign	AT&T CMA No.	Block	AT&T CMA Name	Neighbor Call Sign	Neighbor CMA No.	Neighbor CMA Name
4862565	KNKN791	CMA681	B	VA 1 - Lee	KNKN880 KNKN809	CMA451 CMA452	KY 9 - Elliott KY 10 - Powell

NE Colorado Cellular							
Application File No.	AT&T Call Sign	AT&T CMA No.	Block	AT&T CMA Name	Neighbor Call Sign	Neighbor CMA No.	Neighbor CMA Name
4360447	KNKA348	CMA019	A	Denver - Boulder	KNKN327 KNKR307	CMA349 CMA352	CO 2 - Logan CO 5 - Elbert
4352640	KNKA649	CMA243	A	Greeley	KNKN327	CMA349	CO 2 - Logan
4952609	KNKN448	CMA352	A	CO 5 - Elbert	KNKN327 KNKR307	CMA349 CMA352	CO 2 - Logan CO 5 - Elbert

Wilkes							
Application File No.	AT&T Call Sign	AT&T CMA No.	Block	AT&T CMA Name	Neighbor Call Sign	Neighbor CMA No.	Neighbor CMA Name
4366187	KNKN875	CMA374	B3	GA 4 - Jasper	KNKN874	CMA374	GA 4 - Jasper
4359553	KNKN901	CMA377	B1	GA 7 - Hancock	KNKN874	CMA374	GA 4 - Jasper
4361591	KNKN958	CMA374	B1	GA 4 - Jasper	KNKN874	CMA374	GA 4 - Jasper

Appendix II
Group II Applications
(See Group II Waiver Request, Appendix A)

App. No.	AT&T Call Sign	AT&T CMA No.	Block	AT&T CMA Name	Neighbor Call Sign	Neighbor CMA No.	Neighbor CMA Name	Neighbor
4973763	KNKA472	CMA096	A	Fort Wayne, IN	KNKA707 KNKN852	CMA158 CMA588	Lima, OH OH 4-Mercer	Verizon Wireless
5029109	KNKA605	CMA285	A	Las Cruces, NM	KNKA321 WQGM465	CMA081 CMA555	El Paso, TX NM 3-Catron	Verizon Wireless
4984411	KNKA686	CMA184	A	Houma	KNKA411	CMA306	Gulf of Mexico	Broadpoint
4857416	KNKA823	CMA207	A	Jackson, MI	KNKA244 KNKA365	CMA005 CMA078	Detroit/Ann Arbor, MI Lansing-E. Lansing, MI	Verizon Wireless
5029092	KNKN206	CMA322	A	AZ 5-Gila	KNKA340 KNKR292 KNKQ379	CMA077 CMA077 CMA319	Tucson, AZ Tucson, AZ AZ 2-Coconino	Verizon Wireless
5052335	KNKN214	CMA544	A	NV 2-Lander	KNKN224	CMA543	NV 1-Humboldt	Verizon Wireless
4952600	KNKN283	CMA530	A	MT 8- Beaverhead	KNKR311	CMA720	WY 3-Lincoln	Verizon Wireless
5000972	KNKN286	CMA678	A	UT 6-Piute	KNKQ379	CMA319	AZ 2-Coconino	Verizon Wireless
4917209	KNKN296	CMA405	A	IN 3-Huntington	KNKA707 KNKN852	CMA158 CMA588	Lima, OH OH 4-Mercer	Verizon Wireless
4930384	KNKN312	CMA718	A	WY 1-Park	KNKR311	CMA720	WY 3-Lincoln	Verizon Wireless
5029078	KNKN409	CMA356	A	CO 9-Costilla	KNKA764	CMA241	Pueblo, CO	Verizon Wireless
4957751	KNKN432	CMA526	A	MT 4-Daniels	KNKR256	CMA525	MT 3 - Phillips	Verizon Wireless
5069758	KNKN440	CMA408	A	IN 6-Randolph	KNKA344	CMA040	Dayton, OH	Verizon Wireless
5021516	KNKN270	CMA553	A	NM 1-San Juan	KNKR316	CMA553	NM 1 - San Juan	Smith Bagley